IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.831 OF 1994.

Smt.Devikumari Chhatrabahadur
Chetri & ors. : Appellants.

versus

1] Pradeepkumar Raybhan Pailvan
.. Deleted

2] State Transport Corporation
of Maharashtra : Respondent.

Ms.Nayna Thatte for the appellants.
None for the respondent No.2.

CORAM : D.G.DESHPANDE,J.

DATED : 26th APRIL 2005.

ORAL ORDER

1. Heard advocate for the appellants. Nobody is present for the respondents. This appeal is filed by the original claimants for enhancement of compensation. They had claimed Rs.Three lacs before the Motor Accident Claims

Tribunal, Raigad at Alibag. The tribunal awarded only Rs.1,32,000/-. Hence this appeal.

2. The fact that the respondents have been held liable is now a concluded fact. There is no cross objection by the respondents. The question is of quantum. The reasoning of the tribunal in that regard is to be found in para 7 of the judgment. The deceased Chhatrabahadur was 42 years of age when he died. His salary was 1200/- per month. His employer was examined. His wife has stated that he was giving Rs.800/- for the family. The tribunal fixed monthly dependency at Rs.750/- per month without any reasoning. Secondly, the tribunal applied multiplier of 13. Rs.10,000/- was given for loss of consortium and Rs.5,000/- for love and affection.

3. The reasoning of the tribunal, so far as fixing of compensation is concerned, it is not property. The counsel for the appellants relied upon the judgment of the Supreme Court reported in **1987 ACJ 172 [Jyotsna Dey and ors. v. State of Assam and ors.]** In that case, the age of the deceased at the time of fatal accident was 45 years. Considering the life span, 20 was taken

as multiplier. Here the age of the deceased was 42 years. He was serving as security guard. His wife has stated that he would have been in service up to the age of 60 years. Since the Supreme Court has taken 20 as the multiplier in case of the victim who was 45 years of age, same multiplier will have to be applied to the present case. Therefore, the compensation will have to be enhanced. Dependency has to be fixed at Rs.800/- per month. Therefore, the figure comes to as Rs.800 x 12 x 20 = Rs.1,92,000/- plus Rs.25,000/- for loss of consortium and Rs.5,000/- for funeral. The claimants will be entitled to Rs.1,92,000+Rs.25,000/-+Rs.5,000/-= Rs.2,22,000/- Therefore, the appeal is required to be partly allowed. Hence the order.

:ORDER:

The appeal is partly allowed.

The order of the tribunal awarding compensation is modified. The claimants will be entitled to Rs.2,22,000/- with costs through out.

[D.G.DESHPANDE]

26/04/2005 JUDGE.